Explanatory Memorandum

June 2010

Currency:

This issue of Client Alert takes into account all developments up to and including 15 April 2010.

Division 7A applies to 'payments by direction'

FCT v Rozman

The Federal Court has confirmed that the deemed dividend provisions can apply where a payment is made by a debtor of a company to a shareholder at the direction of the company — and that, therefore, a payment for the purposes of the provisions does not preclude 'payment by direction': *FCT v Rozman* [2010] FCA 324.

Background

The taxpayer and her former de-facto spouse were the shareholders and directors in a private company that carried on a business of exporting and importing recycled paper and renting out shipping containers. In the 2001 income year, the company directed US clients to pay over $160,000 in debts owed to the company into the US account of the taxpayer (of which she was sole signatory). The funds in the account were used for the private expenditure of the taxpayer and her former de-facto spouse.

The Commissioner issued an amended assessment to include the payments in her assessable income on the basis they were 'deemed dividends' under Div 7A of ITAA 1936. He also imposed 75% shortfall penalties for intentional disregard of the law. The taxpayer argued that for s 109C(3) to apply, the payment must be made by the company itself and that a direction to a debtor to discharge a debt by paying the amount to the shareholder was not such a payment. She therefore claimed that Div 7A could not apply to treat the payments as deemed dividends.

In *Re Reid and FCT [2009] AATA 357,* the AAT found that s 109C applied to treat the payments as deemed dividends in the taxpayer's hands. In particular, it found that s 109C can apply where a company 'makes' a payment to a shareholder by way of directing its debtors to make the payment. It also found that the amounts were not held on trust for her former de-facto spouse. However, as the amounts were used both by the taxpayer and her former de-facto spouse, the AAT ruled it was appropriate for the taxpayer to be liable only on 50% of the payments. The AAT also maintained the rate of penalty imposed.

Decision

The Federal Court dismissed the taxpayer's argument that s 109C(3) requires the act of payment to be made directly by the company and that it excludes 'payment by direction'. In particular, it found that as a matter of ordinary English, the concept of 'pay' includes notions of satisfaction and discharge. ('Thus, only a pedant would protest that a woman who buys a pair of shoes on a credit card has not paid for them; and this is so notwithstanding that every credit card purchase conceals at least one payment by direction.') In short, the Court held there was no reason to construe the notion of 'pay' as requiring a direct flow of money from the payer to the payee, or that it precludes payment by direction.

In addition, the Court agreed with the Commissioner that the AAT had incorrectly applied the decision in *MacFarlane v FCT* (1986) 13 FCR 356; 17 ATR 808 in ruling that it was appropriate for the taxpayer to be only liable on 50% of the payments given the taxpayer and her former de-facto spouse (the other shareholder) used the funds. Instead, the Court found that for such a conclusion, it was necessary for the payments to be held on trust for the de-facto spouse — and the AAT had rejected such a finding.

Accordingly, the Court allowed the Commissioner's appeal and found it was not open to conclude that the taxpayer had only received 50% of the payments beneficially.

Finally, the Court said it could not deal with the taxpayer's claim that the shortfall penalty should be reduced as her position was 'reasonably arguable'. It said this was because it was not clear on what basis the Commissioner had imposed the penalty and because the AAT had incorrectly dealt with the matter on the basis that the taxpayer had not sought a remission. In this regard, the Court noted the inherent inconsistency between a finding of 'intentional disregard' and the argument of a 'reasonably' adopted position.

Follow-on decision

Following the decision in *FCT v Rozman* [2010] FCA 324 (see above), the Court has reaffirmed its original decision after considering two arguments by the taxpayer that it failed to deal with in its original judgment: *FCT v Rozman* (No 2) [2010] FCA 387.

In the first argument, the taxpayer claimed that s 109C does not encompass 'payments by direction' as s 109T, which applies to payments made through interposed entities, would not be necessary as the principle of 'payment by direction' would be sufficient to apply instead in this situation. However, the Court found that s 109T does serve a separate function in that it can apply where the interposed entity makes a payment without any direction from the private company. Therefore, the Court found that the existence of s 109T could not be used to argue that s 109C does not apply to 'payments by direction'.

In the second argument, the taxpayer claimed that the rule in s 109Y that a deemed dividend amount could not exceed a private company's 'distributable surplus' meant that the deemed dividend provisions in s 109C could not have any application where a 'payment by direction' was made to a debtor of the private company. However, the Court ruled that while s 109C was clearly *subject* to the operation of s 109Y, it did not *prohibit* the operation of s 109C *per se*, including where s 109C applies to 'payments by direction'. It therefore had no impact on the application of s 109C in principle.

In terms of whether s 109Y actually applied in this case, the Court found that as no such finding of fact was made by the AAT on this question, and that as it had not even been argued before the AAT or on appeal, then there was no factual foundation to support any such argument and it therefore had to be rejected on this ground also.

Finally, the Court noted that it had the power to entertain the current application to review its original reasons and conclusions as it had not technically disposed of the matter at first instance, but had merely sought short minutes of orders be brought in by the parties.

Judgment of $81.4 million Stands Against Trustee

Barkworth Olives Management Limited v DCT

The Qld Court of Appeal has unanimously dismissed an appeal by a taxpayer in which the taxpayer sought to exonerate itself from a liability to pay tax imposed: *Barkworth Olives Management Ltd v DCT* [2010] QCA 80.

Background

The taxpayer was the trustee of four trusts. In July 2008, the Tax Office commenced proceedings in the Qld Supreme Court to recover outstanding income tax, interest and penalties, which it claimed the taxpayer was liable to pay (totalling $81.4 million) in respect of the income years ended 30 June 1999 to 2003. The taxpayer contended it was not liable because it had not received the money which constituted the assessed taxable income.

In an earlier decision in June 2009 by the Qld Supreme Court, the primary judge (Byrne SJA) granted the Commissioner summary judgment against the taxpayer for $81,425,884. The amount was the total of the outstanding income tax, interest and penalties. The Commissioner had assessed the taxpayer under s 99A of ITAA 1936.

The taxpayer contended that under s 254(1)(e) of ITAA 1936, it was not personally liable for the tax because it had not received any of the monies which were the subject of the assessments. The taxpayer argued that while it ordinarily would be liable under s 204 of ITAA 1936 to pay the tax assessed, s 254(1)(e) operated to preclude the Commissioner from obtaining a judgment unless it had or should have retained sufficient monies coming to it in its capacity as trustee to pay the tax.

In *Barkworth Olives Management Ltd v DCT* [2009] QCA 191, the Court of Appeal dismissed the taxpayer's application to exonerate itself from the liability to pay the tax imposed.

Decision

In the current appeal, the Court of Appeal said the substantial question was whether on the evidence before the primary judge, s 254(1)(e) arguably operated to qualify what otherwise would be the conclusive effect of the notices of assessment. The Court interpreted s 254(1)(e) to mean that the section would ordinarily limit the liability of a trustee to any amount of money received by the trustee after the due date for lodging a return and thus after the derivation of the income with reference to which the tax assessed. While the Court acknowledged that other constructions of the section may exist, it said 'on any construction which produces the limitation of liability for which the [taxpayer] contends there is a substantial conflict between it and those provisions which render trustees liable for tax with reference to s 99A and similar provisions in Div 6 of Pt III'. In the Court's view, the specific provisions in Div 6 take precedence over s 254(1)(e). It said the section should not be construed as qualifying the taxpayer's personal liability created by operation of s 204.

In conclusion, the Court stated that s 254(1)(e) did not have potential application to limit the taxpayer's personal liability if the taxpayer was assessed under a provision in Div 6 even though this outcome might seem 'very harsh'. However, the Court noted that decisions of the High Court (eg *DCT v Broadbeach Properties Pty Ltd* (2008) 237 CLR 473; 69 ATR 357) established that 'the potential for great hardship if a taxpayer's objections are ultimately found to have merit provides no ground for denying the clear terms of the statutory provisions'. Accordingly, the Court concluded that summary judgment had rightly been entered.

Personal Superannuation Contributions Deduction Denied

Re Van Prooyen and FCT [2010] AATA 281

The AAT has disallowed a taxpayer's claim for a deduction for personal superannuation contributions after ruling that he did not satisfy the 'maximum earnings as employee condition' under s 290-160 of ITAA 1997 for the income year: *Re Van Prooyen and FCT [2010] AATA 281*.

Background

The taxpayer was an Administrative Services Officer with the Australian Electoral Commission (AEC). Following a work accident in 2004, the taxpayer was unable to work and received workers' compensation payments until he retired on grounds of invalidity on 12 July 2007. He received a lump sum payment of $41,182 for unused annual leave and long service leave on 18 July 2007. During the 2007/08 year he made personal contributions totalling $85,710 to two superannuation funds.

Decision

The AAT upheld the Commissioner's decision to deny a deduction for the personal contributions on the grounds that the taxpayer was engaged in the relevant activity of holding an office (or employment activity) for the 12 days in July which constituted the relevant activity for the purposes of s 290-160.

The AAT rejected the taxpayer's argument that he was not 'engaged' in any relevant activity for the 12 days in July for the purposes of s 290-160 as he unable to work for that period. The AAT did not accept his contention that the word 'engage' requires activity. Rather, the AAT noted that a person could hold an office that does not require any activity. In addition, the AAT said the lump sum payment of $41,182 was 'attributable to the activities' of holding the office or employment under s 290-160(2). According to the AAT, an amount can be attributable to employment or to holding an office when it is a payment for unused leave that has accrued during the term of that employment or office. In this respect, the AAT said that without having held the office of employment with the AEC, the taxpayer would not have accrued any entitlement to annual leave or long service leave.

As a result, the AAT agreed that the 10% test for the maximum earnings as employee under s 290-160 was not satisfied, as the taxpayer's lump sum payment (which was attributable to those activities) clearly exceeded 10% of his assessable income of $184,541 for the 2007/08 income year.

SMSF Trustees with Enduring Power of Attorney

Self Managed Superannuation Funds Ruling SMSFR 2010/2

This Ruling explains the Commissioner's views on how a person who holds an enduring power of attorney in respect of a member of a self-managed superannuation fund (SMSF) can be a trustee in place of the member (or a director of the corporate trustee) under s 17A(3)(b)(ii) of the SIS Act.

Background

In order to qualify as an SMSF, a super fund must meet the conditions set out in s 17A of the SIS Act. Other than for single member funds, one specific requirement is that each member of an SMSF must also be a trustee of the SMSF or a director of the corporate trustee: s 17A(1)(d). However, s 17A(3) prescribes certain limited situations in which a person other than a member may be a trustee of an SMSF or a director of the corporate trustee.

In particular, a legal personal representative (LPR) who holds an enduring power of attorney (EPOA) granted by a member may be a trustee of the SMSF (or a director of the corporate trustee) in place of the member without causing the fund to fail to satisfy the definition of an SMSF: s 17A(3)(b)(ii).

Changes from Draft Ruling

The Ruling has been revised in several important respects from Draft Ruling SMSFR 2009/D1. The final Ruling reflects that more than one LPR can be appointed as a trustee/director in place of the member. Likewise, it clarifies that the same person (including an existing trustee) can replace more than one person so that s 17A(3)(b)(ii) can operate to allow a reduction in the number of trustees. That is, a one-for-one

substitution is not necessary. The final Ruling also does not include the requirements in the Draft Ruling in relation to scope of the EPOA.

In addition, the final Ruling now reflects the view that an alternate director will be a director in place of the member while they are exercising the powers of that position. Provided that the alternate director can only exercise the powers of a director where the main director does not, the final Ruling says it is not necessary that the member resign as a director of the SMSF to satisfy the exception in s 17A(3)(b)(ii). The final Ruling also explains that a LPR cannot be appointed as a trustee in place of a member who is disqualified under s 120 from being a trustee (eg a bankrupt): s 17A(10).

LPR must be appointed as trustee

The Tax Office notes that a LPR does not become a trustee of the fund (or a director of the corporate trustee) merely by virtue of holding an EPOA. Rather, the Ruling states that the LPR must be appointed as a trustee of the SMSF (or a director of the corporate trustee). In addition, the Tax Office says the member must cease to be a trustee of the SMSF or a director of the corporate trustee, except where the LPR is appointed as an alternate director (see further below).

The Commissioner says the appointment of the LPR as a trustee and the removal of the member from this position must be in accordance with the trust deed, the SIS Act and any other relevant legislation. For example, the SMSF's trust deed must allow for the appointment of a person who is not a member of the fund as a trustee in place of the member. In the case of a director of the corporate trustee, the appointment of the LPR as a director of the corporate trustee and the removal of the member must also comply with the constitution (if any) of the corporate trustee and the *Corporations Act 2001*.

Alternate director of corporate trustee

The Ruling states that a member who is a director of the corporate trustee of an SMSF may also appoint their LPR holding an EPOA as an alternate director in their place in accordance with the corporate trustee's constitution or s 201K of the *Corporations Act 2001* (replaceable rule). If the LPR is appointed as an alternate director, he or she must be so appointed in their own right and not as the member's agent.

In addition, the terms of the appointment must only empower the LPR to act as a director when the member is not performing those duties themselves. The member is not removed from the position of director in these circumstances. As a result, the final Ruling has been revised to reflect the Commissioner's view that an alternate director will be a director in place of the member while they are exercising the powers of that position. Importantly, provided that the alternate director can only exercise the powers of a director where the main director does not, the final Ruling says it is not necessary that the member resign as a director of the SMSF to satisfy the exception in s 17A(3)(b)(ii).

Multiple attorneys

Where an EPOA is executed in favour of multiple attorneys, one or more of those attorneys can be appointed as a trustee/director in place of the member. Similarly, multiple members can execute an EPOA in respect of the same LPR who can be appointed as a trustee/director in place of each of those members.

One-for-one substitution not necessary

The Tax Office says a member can execute an EPOA in favour of an existing member who is a trustee/director in their own right. In that case, the donor member can cease to be a trustee/director and the LPR will be considered to be appointed in their place for the purposes of s 17A(3)(b)(ii). In this respect, the Tax Office's interpretation of s 17A(3) is not restricted to only a one-for-one substitution of the LPR for the member as a trustee/director. Effectively, this interpretation that a one-for-one substitution is not necessary creates an avenue for an LPR to exercise his or her power as a single trustee or director of the SMSF.

In summary, the Tax Office considers that s 17A(3)(b)(ii) allows for the following:

- an existing member and trustee/director can also be a trustee/director in the place of another member where they hold an EPOA for that member;
- a LPR who holds an EPOA for more than one member can be a trustee/director in the place of one or more of those members; and
- where one member has granted an EPOA to more than one person, one or more of those people can be appointed as trustee/director in place of the member.

Duties and responsibilities of appointed LPR

Once appointed as a trustee/director, the Tax Office considers that the LPR performs their duties as a trustee of the SMSF, or a director of the corporate trustee of the SMSF, pursuant to their appointment to that position rather than as an attorney or agent for the member. Consequently, the Ruling states that any proscriptions contained in State or Territory legislation against conferring trustee duties and powers via a

power of attorney or common law restrictions on attorneys undertaking directors duties are not relevant to the application of the exception contained in s 17A(3)(b)(ii). However, the Tax Office says the EPOA must be current and accord with the relevant State or Territory legislation at all times during which the LPR is a trustee/director of the SMSF in place of the member.

Furthermore, as the LPR is acting in a personal capacity as a trustee of the SMSF (or a director of the corporate trustee), the Tax Office warns that the LPR may be subject to civil and criminal penalties for any breaches of their duties under the SIS Act, Corporations Act or other legislation. In addition, civil action could potentially be brought against the LPR by members of the SMSF.

Importantly, the final Ruling does not include the references in the Draft Ruling in relation to scope of the EPOA which required an authority to act in relation to the donor's financial, business and property affairs or an authority to act in relation to the donor's superannuation affairs. It appears that the Commissioner deleted this requirement after accepting a practitioner's argument that there are no requirements in the legislation as to the scope of an EPOA that is to be relied upon.

The Tax Office also notes that an LPR appointed as a trustee/director is prevented from being remunerated by the fund or any person for any duties or services performed as a trustee/director: s 17A(1)(f) and (g).

SMSF Trauma Insurance Policies and Sole Purpose Test

Self Managed Superannuation Funds Determination SMSFD 2010/1

This Determination sets out the circumstances where a trustee of a self-managed superannuation fund (SMSF) can purchase a trauma insurance policy in respect of a member and still satisfy the sole purpose test in s 62 of the SIS Act.

The Commissioner states any benefits payable under a trauma insurance policy must be payable to a trustee of the SMSF and become part of the assets of the SMSF, at least until the relevant member can satisfy a condition of release. In addition, a policy must not be acquired to secure some other benefit under the policy for another person (eg a member or member's relative).

If an SMSF trustee purchases a trauma insurance policy that provides for benefits payable under the policy to be paid directly to someone other than a trustee of the SMSF (eg the insured member or member's relative), the Tax Office says this would contravene s 62 of the SIS Act. Nevertheless, it is the Commissioner's view that the acquisition of a trauma insurance policy by a trustee of an SMSF will not automatically lead to the trustee contravening the sole purpose test.

The Determination was previously released as Draft SMSFD 2009/D1. To avoid confusion, the wording in the final Determination has been revised to refer to the identity of the policy owner (rather than the beneficiary of the policy).

Super System Review: Preliminary Report on SMSFs

On 29 April 2010, the Super System Review released its preliminary report, *Self-Managed Super Solutions* <www.supersystemreview.gov.au/content/downloads/self_managed_solutions/self_managed_super_solutions.pdf, accessed on 4 May 2010>, in response to matters raised in its Phase Three issues paper on structure (including SMSFs) released in December 2009.

The Panel considers its preliminary report is consistent with the Government's *Future of Financial Advice* reform package. In particular, in areas such as adviser competency and remuneration and the removal of the accountants' licence exemption.

The Panel's final report (encompassing all three phases) will be delivered to the Government by 30 June 2010.

Key recommendations

Investments

- ***Exotic assets prohibited*** — Investments in collectables and personal use assets should be prohibited. Examples include (but are not limited to) paintings, jewellery, antiques, wine, exotic cars, yachts, golf club memberships, race horses and boats. SMSFs that own collectables or personal use assets would be provided a transitional period, up to 30 June 2020, in which to dispose of those assets.
- ***In-house assets prohibited*** — In-house assets should be prohibited (ie the current 5% limit be cut to 0%). A transitional period, up to 30 June 2020, would apply to enable SMSFs to dispose of existing in-house assets.
- ***Leverage and instalment warrants*** — In principle, the Panel has concerns with the concept of direct borrowing within any superannuation funds. As a result, the Panel recommends that the 2007 relaxation of the borrowing exception in s 67(4A) of the SIS Act, and the recently announced consumer protection

measures be reviewed in two years to ensure that borrowing has not become a significant focus of SMSFs. To assist in monitoring the levels of instalment warrant borrowings, the Panel recommends that credit providers should be required to collect and provide relevant data to APRA that would enable the RBA to publish statistics.

- ***Related-party transactions*** — The SIS legislation relating to acquisitions and disposals between related parties should be amended so that either: (a) where an underlying market exists, all acquisitions and disposal of assets between SMSFs and related parties must be conducted through that market; or (b) where an underlying market does not exist, acquisitions or disposals of assets between related parties must be supported by a current independent valuation from a registered valuer.
- ***Business real property exemption*** — The Business real property exemption should remain in place.

Structure

- ***SIS Act restructure*** — The SIS Act should be restructured to separate and set out clearly those areas that are common for all funds and those areas that are only relevant to the individual superannuation sectors. The separation of SMSF legislation into a separate Act, or division within the SIS Act, would provide an opportunity to simplify and clarify the SMSF rules by removing inapplicable provisions.
- ***Trust structure*** — The Panel supports the retention of the trust structure for SMSFs to facilitate the concept of control and recognise that ultimate responsibility rests with trustees.
- ***Four-member limit*** — The Panel does not propose to recommend changing the existing four member limit.
- ***Standard trust deeds*** — The SIS Act should be amended to reduce the need for amendments to SMSF trust deeds when the SIS legislation or tax laws change.
- ***Title to SMSF assets*** — The covenant in s 52(2)(d) of the SIS Act requiring separation of fund assets from personal or employer assets should be replicated in a SIS operating standard.

Trustees

- ***Trustee education*** — In principle, the Panel does not favour compulsory trustee education but it is attracted to the idea of compulsory education for those who breach their SIS Act obligations.
- ***Annual member disclosure*** — The Corporations Act should be amended (after industry consultation) to ensure SMSF members are provided with certain key information on an annual basis.

SMSF establishment and rollovers

- ***Minimum fund size (eg $200,000)*** — There is no need to mandate a minimum SMSF asset size as members should have the right to choose. However, the Panel remains concerned about the number of small-sized SMSFs but has not yet reached a firm enough view on this issue to make any recommendation. Currently, the Panel favours an online module option whereby a prospective SMSF member would be required to complete an online module on a self-assessment basis.
- ***SMSF registration*** — Proof of identity checks should be required for all people joining an SMSF, whether they are establishing a new fund or joining an existing fund. However, identification measures should not apply retrospectively except for existing SMSFs wishing to organise rollovers from an APRA-regulated fund.
- ***Member identification*** — This could be achieved with little additional burden by getting the member/trustees to open the SMSF bank account before applying to the Tax Office for registration.
- ***Adviser identification*** — The SMSF registration process should capture the details of the person who has provided advice in relation to the establishment of the SMSF (where applicable).
- ***SMSF naming conventions*** — Controls be put in place to ensure SMSFs can be neither established with, nor subsequently change their name to, the same or a similar name as an existing APRA-regulated entity.
- ***Super Fund Lookup*** — Super Fund Lookup should provide appropriate SMSF information to APRA-regulated funds to enable the APRA-regulated fund to verify the details of SMSF membership before processing rollover requests to SMSFs. Upon appropriate confirmation, the APRA-regulated fund would immediately process the request and electronically transfer the rollover to the validated SMSF bank account.
- ***Illegal early release*** — Existing tax laws should be amended so that amounts illegally released early be taxed at the superannuation non-complying tax rate (rather than the individual's marginal rate). An additional penalty, based on a sliding scale of penalties that takes into account the individual circumstances, should also apply. Legislation should also be enacted to provide for criminal and civil sanctions for scheme promoters.
- ***AML/CTF*** — Rollovers to an SMSF should be captured as a designated service under the AML/CTF Act.

Regulation

- ***ATO regulation*** — The Panel believes that the Tax Office remains the appropriate regulator of the SMSF sector via a compliance-focused approach.
- ***ATO penalties*** — The relevant legislation should be amended to provide the Tax Office with the power to issue administrative penalties against SMSF trustees on a sliding scale to reflect the seriousness of the breach.
- ***Power to give directions*** — The SIS legislation should be amended to provide the Tax Office with the power to issue relevant persons with a direction to rectify specified contraventions within a specified reasonable time.
- ***Compulsory education*** — The Tax Office be given the power to enforce mandatory education for trustees who have contravened SIS legislation.
- ***Binding SMSF rulings*** — Amend legislation to give the Tax Office the power to issue binding rulings in relation to SMSFs, subject to the implementation of the recommendation to restructure the SIS Act.

Approved auditors

- ***Timing of audits*** — The current frequency of annual audits is appropriate and should not be reduced.
- ***SMSF auditors*** — Approved auditors should be registered, with registration requirements linked to minimum ongoing competency and knowledge standards.
- ***Auditor independence*** — Full auditor independence should be legislated, whereby an individual or firm providing any service in connection with an SMSF or its individual trustees or trustee directors in any capacity is to be expressly prohibited from auditing that SMSF.
- ***Asset valuations*** — Legislation should be passed to require SMSFs to value their assets at net market value.

Advisers

- ***Financial advisers*** — Competency standards for SMSF advisers need to be raised. ASIC, in consultation with industry and the 'expert advisory panel', should develop the SMSF specialist knowledge component of RG 146.
- Adviser remuneration — The approach recommended for MySuper and in the Government's Future of Financial Advice reforms should also apply the same settings for the SMSF sector.
- ***Accountants' licence exemption*** — As the Government has announced that it will consult on an appropriate alternative to the current accountants' financial services licence exemption, the Panel will no longer examine the accountants' licence exemption as part of the review process.

Source: Super System Review media release No 2010/03, 29 April 2010 <www.supersystemreview.gov.au/content/content.aspx?doc=html/media_releases/2010/003.htm>, accessed on 4 May 2010.

Cents per km rates for motor vehicles for 2009/10

The *Income Tax Assessment Amendment Regulations 2010 (No 4)* <www.frli.gov.au/ComLaw/Legislation/LegislativeInstrument1.nsf/all/whatsnew/CAC0E81076D3AD08CA2576FE000EA9D2?OpenDocument> were registered to amend the *Income Tax Assessment Regulations 1997* to update the cents per kilometre rates for calculating motor vehicle expenses for income tax purposes. The rates for the 2009/10 income year remains unchanged from the 2008/09 rates and are as follows:

- Small car (non-rotary — not exceeding 1,600cc; rotary — not exceeding 800cc) — 63c/km;
- Medium car (non-rotary — 1,601-2,600cc; rotary — 801-1,300cc) — 74c/km;
- Large car (non-rotary — exceeding 2,600cc; rotary — exceeding 1,300cc) — 75c/km.